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SECRETARY, BOARD OF
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR
AGENCY ACTION OF XTO ENERGY INC. FOR
AN ORDER EXTENDING THE BOARD'S ORDER
ENTERED IN CAUSE NO. 245-1 TO ESTABLISH
A 160-ACRE DRILLING UNIT FOR THE
PRODUCTION OF GAS (INCLUDING COALBED
METHANE) FROM THE FERRON FORMATION
COMPRISED OF THE SE¼ OF SECTION 26, T17S,
R7E, SLM, EMERY COUNTY, UTAH

REQUEST FOR AGENCY ACTION

Docket No. 2014-003

Cause No. 245-07

COMES NOW, XTO Energy Inc. ("XTO"), acting by and through its attorneys, MacDonald & Miller Mineral Legal Services, PLLC, and pursuant to Utah Code Ann. §§ 40-6-5(3)(b) and 40-6-6, and hereby respectfully requests the Board of Oil, Gas and Mining (the "Board") to enter an order extending the Board's Order entered on July 7, 1999 in Cause Nos. 245-1 (the "245-1 Order"), to establish a 160-acre drilling unit for the production of gas (including but not limited to coalbed methane) from the Ferron formation, defined in the 245-1 Order as follows:

the stratigraphic equivalent of the interval from 3,255 feet to 3,496 feet as shown on the Bulk Density Log of the Federal "P" 10-42 well located in the NW¼NE¼ of Section 10, Township 18 South, Range 7 East, SLM,

including all coals and surrounding sands (the "Subject Formation"), comprised of the SE¼ of Section 26, Township 17 South, Range 7 East, SLM, Emery County, Utah (the "Subject Lands"), retroactive to December 21, 2007, the date of first production from the

Utah Federal 17-7-26-44D Well (the "Subject Well"), having producing intervals located therein.

In support of this Request, XTO respectfully states and represents:

1. XTO is a Delaware corporation in good standing, with its principal place of business in Fort Worth, Texas, and is duly authorized to conduct business in the State of Utah. It is duly bonded with all appropriate State of Utah and Federal agencies relevant to this cause.

2. The oil and gas underlying the Subject Lands is owned by, and subject to oil and gas leases, as follows:

<u>Owner</u>	<u>Lease</u>	<u>Lands</u>
United States of America	UTU-75667	NE $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$ (among other lands)
PacifiCorp d/b/a Utah Power & Light Company	Fee, recorded on October 27, 2008 as Entry No. 392411, Emery County Realty Records	NW $\frac{1}{4}$ SE $\frac{1}{4}$ (among other lands)

XTO is the current and sole lessee under both leases.

3. XTO spud the Subject Well on September 27, 2007 and directionally drilled it from a surface hole location in the SW $\frac{1}{4}$ SW $\frac{1}{4}$ of adjacent Section 25 (upon Federal Lease UTU-75666) to a bottom hole location 753 feet FSL and 654 feet FEL in (and with all producing intervals within) the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of subject Section 26. The Subject

Well was completed in the Subject Formation as a gas well and began production on December 21, 2007.

4. Pursuant to the 245-1 Order, the Board established 160-acre (or substantial equivalent thereof) drilling units for the production of gas (including but not limited to coalbed methane) from the Subject Formation for numerous lands within Townships 17 and 18 South, Range 7 East, SLM, including in adjacent Section 36, with one well authorized for each drilling unit so established. The Board has entered numerous other consistent orders for the Subject Formation throughout Carbon and Emery Counties.

5. XTO has drilled numerous wells producing from the Subject Formation throughout Carbon and Emery Counties, all based on a 160-acre (or substantially equivalent) density pattern.

6. However, for some unknown reason, the Subject Lands were never included as part of any of the Board's previous orders. Nevertheless, XTO has allocated production from the Subject Well and paid associated production proceeds to the production interest owners within the Subject Lands on a pro-rata acreage basis, just as if the 245-1 Order were applicable to the Subject Lands, without objection since the Subject Well's date of first production.

7. It has recently come to XTO's attention that no communitization agreement conforming to that allocation scheme has ever been executed or approved. However,

under Federal regulation and guidelines, a Board spacing order is required before such a communitization agreement may be approved by the Bureau of Land Management, and any such communitization agreement should be made effective as of the date of first production. Consequently, XTO files this Request seeking retroactive spacing to comply with these Federal regulatory requirements.

8. Technical data from the Subject Well confirms the geologic characteristics of the Subject Formation as underlying the Subject Lands are nearly identical to those addressed in the 245-1 Order and therefore the Subject Formation constitutes one “common source of supply.” Volumetric and economic analyses also confirm the Subject Well is efficiently and economically draining the Subject Lands. XTO is prepared to present this evidence and testimony in support of these conclusions.

9. In light of these factors, especially the tacit agreement and acknowledgement of the parties as to the 160-acre production allocation, XTO is requesting extension of the 245-1 Order to the Subject Lands, retroactive to December 21, 2007, the date of first production of the Subject Well, which will allow the execution and approval of the conforming communitization agreement in compliance with Federal regulation. The Board has previously established such precedent by granting retroactive spacing under similar circumstances on several occasions (*see, e.g.*, the 245-1 Order, the

Order entered on December 6, 2011 in Cause No. 139-87 and the Order entered May 9, 2012 in Cause No. 139-90).

10. XTO believes and therefore states that the requested order will further confirm the orderly development of the Subject Lands, prevent waste, and adequately protect the correlative rights of all affected parties, and is just, reasonable and equitable under these circumstances.

11. XTO will separately file a certificate of mailing listing all persons known to XTO whose “legally protected interests” in the Subject Lands will or may be affected by this Request, together with their last know addresses disclosed by the applicable agency and Emery County realty records. There are no respondents or adverse parties known at this time to XTO.

WHEREFORE, XTO respectfully requests:

1. That this matter be set for hearing on January 22, 2014;
2. That due notice be given as required by law; and
3. That, upon sufficient evidence produced and testimony given at the hearing,

the Board issue an Order:

- a. Providing for the extension of the 245-1 Order to cover the Subject Lands, thereby establishing the Subject Lands as a drilling unit for the production of gas (including but not limited to coalbed methane) from the Subject Formation, including all coals and surrounding sands;

- b. Providing that the Subject Well is the authorized well for the drilling unit so established;
- c. Providing that the order shall be retroactively effective to December 21, 2007, the date of first production of the Subject Well;
- d. Making such findings and orders in connection with this Request as it deems necessary; and
- e. Providing for such other further relief as may be just and equitable under the circumstances.

Respectfully submitted this 10th day of December, 2013.

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